



## 2010 APPEAL PROCESS

This document sets out the appeal process for Athletes who have failed to be selected by the TAESC for Events or Teams/Squads according to the terms of TA's Selection Criteria.

### 1. Right of Appeal

- (a) An eligible Athlete who fails to be selected for a TEAM/SQUAD or EVENT according to published TA selection criteria may appeal against omission from the TEAM/SQUAD or EVENT as set out in this document.
- (b) The sole grounds of any appeal are that:
  - i. The Athlete's omission from the TEAM/SQUAD or EVENT was as a result of a failure by TAESC to properly apply the Selection Criteria;
  - or
  - ii. There was no basis on which the selection decision could reasonably have been made.
- (c) An appeal will proceed according to the procedure set out below.

### 2. Notice of Appeal

- (a) Any eligible Athlete wishing to appeal against his/her omission from the TEAM/SQUAD or EVENT **must** lodge a Notice of Appeal in writing in the form set out at Annexure 1 to this document to be received by the CEO of TA by 5:00pm on the second clear day following the announcement of the selection decision which is the subject of the appeal.

**The Notice of Appeal must set out the grounds upon which the appeal is made.**

- (b) After lodging the Notice of Appeal as set out in subclause 2(a) above, the appellant (the Athlete making the appeal) **must** file a summary of all the arguments and/or submissions that the Athlete wishes to be

considered in support of his/her appeal together with an outline of all the evidence that will be relied upon in support of those arguments and/or submissions. This document **must** be received by the CEO of TA by 5:00pm on the fifth clear day following the announcement of the selection decision which is the subject of the appeal.

- (c) The summary of arguments and submissions in support of the Athlete's appeal must be accompanied by an appeal fee of \$500.
- (d) The appellant can withdraw an appeal at any time.
- (e) The time limits for lodging the Notice of Appeal, summary of arguments and submissions and the appeal fee are mandatory, failure to comply with these time limits will, at the absolute discretion of the Triathlon Australia's Selection Appeals Tribunal (TASAT) result in the appeal being dismissed without consideration on the merits.

### 3. Constitution of TASAT

- (a) The TASAT shall be constituted by any three persons available to hear the appeal, which must include the following:
  - (i) a person with a thorough knowledge of the sport and who preferably has had recent international competition experience in the sport;
  - (ii) another person of experience and skills suitable to the function of the TASAT; and
  - (iii) a barrister or solicitor who will chair the TASAT.
- (b) No member of the TASAT may be a party to or directly interested in the matter under consideration.

### 4. Functions of the TASAT

The TASAT has no power of selection or re-selection. The TASAT may review the matter(s) set out in the appeal and may (as appropriate) refer the matter back to TAESC for consideration.

### 5. Hearing of the Appeal

- (a) The TASAT shall, as soon as practical after receiving the appeal documents, investigate and consider the matter and determine whether:
  - (i) the matter should be dismissed because, in the opinion of the TASAT, there is no credible evidence, submission or argument upon which the TASAT could be satisfied that a ground of the appeal can be made out; **or**
  - (ii) the appeal should be the subject of a hearing as set below.

- (b) If the TASAT determines the matter should be dismissed under clause 5(a)(i) above that decision is final and the appeal has failed.

If the TASAT determines that the appeal should be dismissed without a hearing, the appellant's appeal fee of \$500 is forfeited to TA as the costs of the appeal.

If the TASAT determines the matter warrants a hearing, the TASAT will advise the appellant and set the date for such a hearing as soon as practicable and necessary having regard to the timing of selection and the proximity of relevant events.

- (c) The TASAT must conduct any appeal hearing according to clause 5(b) as follows:
- (i) it must observe the principles of natural justice;
  - (ii) it is not bound by the rules of evidence and may inform itself as to any matter in such manner as it thinks fit;
  - (iii) it will conduct its hearings with as little formality and technicality and with as much expedition as the proper consideration of the matter permits;
  - (iv) hearings may occur in such manner as the Chairman decides, including telephone or video conferencing;
  - (v) the appellant must establish one or more grounds of appeal to the reasonable satisfaction of the TASAT with full regard to the importance and gravity of the issue;
  - (vi) the parties to an appeal may be represented at a hearing but not by a barrister, solicitor or a legally trained person;
- (d) Following consideration of all information that the TASAT considers relevant the TASAT shall arrive at a finding. A decision of the TASAT may be by a majority decision;
- (i) the TASAT shall notify the CEO of its finding as soon as practicable;
  - (ii) if the TASAT considers the ground(s) alleged by the appellant to be made out, it shall recommend that TAESC reconsider the selection of the relevant TEAM/SQUAD or EVENT position;
  - (iii) where the TASAT considers that a ground of appeal has been made out, it may stipulate that all or part of the appeal fee be refunded to the appellant;
  - (iv) TAESC shall comply with any direction of the TASAT to reconsider the selection of the relevant TEAM/SQUAD or EVENT position.

- (v) any further selection decision of TAESC under the direction of the TASAT shall be final and binding, and no other further appeal shall be available to the appellant in respect of that selection.

December 2009

**Annexure 1 - Notice of Appeal**

**TRIATHLON AUSTRALIA**

**NOTICE OF APPEAL**

To: Chief Executive Officer  
Triathlon Australia  
Level 3/20 Rodborough Road  
PO Box 6039  
FRENCHS FOREST NSW 2086

Tel: (02) 9972 7999  
Fax: (02) 9972 7998  
Email: info@triathlon.org.au

I, \_\_\_\_\_ of \_\_\_\_\_ advise  
that I wish to appeal my non-selection to the Triathlon Australia's  
\_\_\_\_\_ (athlete to nominate team/squad or event  
and date).

**The grounds on which my appeal is based are as follows:**

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[attach additional pages if necessary]

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2010

Signed:

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**Appellant**